

# STATE OF COLORADO

DEPARTMENT OF REGULATORY AGENCIES

## DIVISION OF INSURANCE

1560 Broadway, Suite 850  
Denver, Colorado 80202



### Bulletin No. B-1.15

#### Guidelines for Rates, Rules, Loss Cost, and Form Filings Containing Confidential Information

##### I. Background and Purpose

The purpose of this bulletin is to provide entities filing information with the Rates and Forms Section of the Division of Insurance (Division) with a process for requesting protection from disclosure of information that is confidential pursuant to the statute. Colorado law allows certain information to remain confidential and not be subject to public inspection under Colorado's Open Records Act found at §§24-72-101 to 502, C.R.S.

Bulletins are the Division's interpretations of existing insurance law or general statements of Division policy. Bulletins themselves establish neither binding norms nor finally determine issues or rights.

##### II. Applicability and Scope

This bulletin is intended to apply to all regulated entities that file information with the Division's Rates and Forms Section, including, but not limited to, forms, rates, rules and/or loss cost filings.

##### III. Division Position

If an entity asserts that certain filings or sections of filings provided to the Division are not subject to disclosure pursuant to statute, the entity must prepare and submit a Confidentiality Index, exhibited in Attachment A, identifying exactly what information is being requested to be confidential. The specific statutory basis for the assertion for each confidential section or page of the filing must be stated. In addition, each referenced portion in the filing must be marked as confidential and labeled in accordance with the Confidentiality Index identification number. It should be noted that, in most cases, the Division would not consider an entire filing to be confidential pursuant to §§24-72-101 to 502, C.R.S. This also applies to filing forms such as the Form HR-1, Forms A, B, C and D, final rating factors, cover letters, rate histories, or side-by-side comparisons of rates or rating factors.

The Division may disagree with an assertion of confidentiality after the information and the statutory references listed on the Confidentiality Index are reviewed. If the Division disagrees or if the required Confidentiality Index is not provided, the entity will be contacted through SERFF and given up to fourteen (14) calendar days to justify its position, provide the Confidentiality Index, or to withdraw the request for confidential handling. If no response is received through SERFF within the fourteen days, the entire filing will be considered an open record and subject to public inspection.

If the confidentiality of the filing or sections of the filing is later challenged, the entity responsible for the filing will be provided an opportunity to defend its position. Ultimately, the confidentiality of the information may be determined by a court of law.

## **Filing Requirements**

When a filing contains both confidential information and information that is open to public inspection, the filing must be clearly divided into two distinct sections, “public” and “confidential”.

The confidential information must be in a separate exhibit, report or attachment, the filing documents should identify the information considered to be confidential and should reference the Confidentiality Index identification number wherever it occurs in the filing.

For example, if the second page of an explanatory or actuarial memorandum contains a section with information the entity considers to be proprietary, the confidential information must be submitted separately from the actuarial memorandum, clearly marked as proprietary, and listed on the Confidentiality Index. The entire explanatory or actuarial memorandum will not be held as confidential.

## **Public Section**

This section shall contain only the information subject to public inspection and the fully completed Confidentiality Index. The inclusion of the Confidentiality Index in the public portion of the filing is to provide the identification of the information that is being held as confidential.

## **Confidential Section**

This section of the filing must be clearly marked “CONFIDENTIAL HANDLING REQUESTED” and submitted as a separate document or exhibit. As indicated above, each separate confidential item must be marked in accordance with the Confidentiality Index identification number and each page of this separate document must be clearly marked “confidential”.

## **Electronic Filings**

Filings submitted in SERFF must provide the confidential section in one or more completely separate exhibits or scheduled items. The Confidentiality Index must also be submitted as a separate exhibit or attachment or attached to the cover letter. The Confidentiality Index is considered a public document.

Filings submitted in SERFF that contain confidential information with public information in the same exhibits or scheduled items will be requested to be withdrawn and resubmitted.

Entire filings typically would not be held as confidential.

The Confidentiality Index is attached to this bulletin as Appendix A. Reproduction is authorized and encouraged. This bulletin is also available on the Division’s website, listed below.

## **IV. Additional Division Resources**

Colorado Division of Insurance  
Rates and Forms Section  
1560 Broadway, Suite 850  
Denver, CO 80202  
Tel. 303-894-7499  
Internet: <http://www.dora.state.co.us/insurance>

## **V. History**

- Originally issued as bulletin 24-04, October 29, 2004.
- Reissued May 8, 2007.
- Reissued December 5, 2008.

**REQUEST FOR CONFIDENTIAL OR PRIVILEGED STATUS**

Please fill out this form and submit it with your filing of information or documents with the Colorado Division of Insurance in the event you are requesting confidential or privileged status for all or a portion of such information or documents. It is your responsibility to both claim and validate your request for confidential or privileged status for each separate portion of the information.

**1. Identification of Party Requesting Confidential or Privileged Status:**

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

**2. Identification of information or documents for which confidential or privileged status is requested. All of the columns must be completed.**

ID No.	Description of each different section or page	Date	Author	Recipient	Identify Confidentiality or Privilege Claimed (cite legal authority)	Reason why it applies
01				Colorado Division of Insurance		
02				Colorado Division of Insurance		
03				Colorado Division of Insurance		
04				Colorado Division of Insurance		
05				Colorado Division of Insurance		

**CONFIDENTIALITY INDEX**

<b>ID No.</b>	<b>Description of each different section, page or paragraph</b>	<b>Date</b>	<b>Author</b>	<b>Recipient</b>	<b>Identify Confidentiality or Privilege Claimed (cite legal authority)</b>	<b>Reason why it applies</b>
<b>06</b>				Colorado Division of Insurance		
<b>07</b>				Colorado Division of Insurance		
<b>08</b>				Colorado Division of Insurance		
<b>09</b>				Colorado Division of Insurance		
<b>10</b>				Colorado Division of Insurance		
<b>11</b>				Colorado Division of Insurance		
<b>12</b>				Colorado Division of Insurance		